



Indiana Judicial Nominating Commission
30 South Meridian Street
Suite 500
Indianapolis, IN 46204
(317) 232-4706

APPLICATION
FOR THE
INDIANA SUPREME COURT

(SEE INSTRUCTIONS)

Deadline – Wednesday, June 30, 2010

I. Provide your:

A. Full legal name and any former names.

Christine Michelle Marcuccilli

Formerly:

- Christine Michelle Stach (by marriage)
- Christine Michelle Brookbank (by adoption)
- Christine Michelle Stineman (by adoption)
- Christine Michelle Shelby

B. Current home and office addresses, including email addresses and telephone numbers.

Home:

Office: 505 E. Washington Blvd.
P.O. Box 11647
Fort Wayne, IN 46859-1647
Phone: (260) 422-9454
Fax: (260) 422-1622
Cell:

C. Date and place of birth. May 11, 1970; Knoxville, TN

D. Complete a State Police release form printed on green paper. Include the release only with the original application and not with the copies.

Submitted to Commission on June 22, 2010.

II. Attach a recent photograph of you to the front of the original application and to each copy of your application.

See attached.

III. A. State in what county you currently reside and since what date.

Allen County, Indiana since July 1995.

B. List all previous counties of residence, with dates.

Porter County, Indiana, August 1992 – July 1995;

Delaware County, Indiana, 1981 – 1992

Hamilton County, Ohio, 1978 – 1981

Delaware County, Indiana, 1974 – 1978

Marion County, Indiana, 1973 – 1974

Delaware County, Indiana, 1970 – 1973

Knox County, Tennessee, 1970

C. When were you admitted to the Indiana Bar? October 23, 1995

D. Are you currently on active status? Yes.

E. What is your attorney number? 18546-64 B

IV. A. List below all colleges and universities you attended other than law schools. Attach a certified transcript from each to the original application and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it before copying.)

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree or Certificate</u>
Ball State University	August 1988 – May 1992	B.S.

B. List below all law schools and post-J.D. programs attended. Attach a certified transcript from each to the original application and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it before copying.)

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree and Class Rank</u>
Valparaiso University School of Law	August 1992 – May 1995	J.D., <i>magna cum laude</i> 18/182

C. Describe any academic honors, awards, and scholarships you received and when.

Valparaiso University School of Law:

Academic scholarships, 1993-1994; 1994-1995
Corpus Juris Secundum Award for Excellence in Civil Procedure, 1992
Dean's List, Fall 1993
Course Honors – Civil Procedure I, Fall 1992
Course Honors – Local Government Law, Fall 1994
Course Honors – Antitrust Law, Spring 1995

Ball State University:

Ball State State Scholarship, 1988-1992
Ball State Alumni Scholarship, 1990-1991
Honors College, 1988-1992
Dean's List, Fall 1988, Fall 1991

V. A. Provide your employment history since graduation from college, including titles or positions, locations, and dates.

- Rothberg Logan & Warsco LLP; Ft. Wayne, IN; 1994 & 1996-present
 - October 2009-present – non-equity partner
 - January 2004-September 2009 – partner
 - January 2002-December 2003 – non-equity partner
 - August 1996-December 2001 – associate
 - May 1994-August 1994 – summer law clerk
 - Note: Firm name was previously Rothberg & Logan LLP and Rothberg Gallmeyer Fruechtenicht & Logan
- Allen Superior Court; Ft. Wayne, IN; July 1995-August 1996
 - Law Clerk to the Honorable Norman E. Baker
- L.S. Ayres; Ft. Wayne, IN; November 1995-January 1996
 - Seasonal sales associate
- Hoepfner Wagner & Evans; Valparaiso, IN; January 1994-April 1994

- Law Clerk
- American Eagle; Merrillville, IN; May 1993-August 1993
 - Sales clerk
- Valparaiso University School of Law; Valparaiso, IN; May 1993-August 1993
 - Research Assistant to Professor Joellen Lind
 - Research Assistant to Professor Ruth Vance
- Warner Wallace McLaren & Dague; Muncie, IN; December 1989-August 1992
 - Law Clerk/Runner

B. If applicable, describe the nature and extent of your practice of law, present and former, and provide the names of your partners, associates, office mates, and employers.

After my one-year judicial clerkship, I went into private practice with Rothberg Gallmeyer Fruechtenicht & Logan (now Rothberg Logan & Warsco LLP), where I have been practicing general civil litigation and civil appeals for the past 14 years. I have experience in general commercial litigation, banking, collections, foreclosure, contract, municipal, hospital lien, mechanic's lien, injunction, tort, domestic relations, aviation, medical malpractice, and bankruptcy.

In my trial practice, I have represented both plaintiffs and defendants in all aspects of a case. In addition to motion practice, I have successfully mediated cases and tried cases to the bench. I have defended contract matters and union grievances through arbitration.

In my appellate practice, I have briefed appeals to the Indiana Court of Appeals, the Indiana Supreme Court, the 7th Circuit Court of Appeals and the U.S. Supreme Court. I have orally argued cases to the Indiana Court of Appeals, the Indiana Supreme Court and the 7th Circuit Court of Appeals.

The other partners, associates and of counsel attorneys of Rothberg Logan & Warsco LLP are:

- Jonathon R. Albright
- Michael E. Armev
- Mark W. Baeverstad
- Michael T. Deam
- J. Rickard Donovan
- Dennis F. Dykhuizen
- Jared C. Helge
- F. L. Dennis Logan
- Thomas D. Logan
- Calvert S. Miller
- Milford M. Miller

- Andrew L. Palmison
- Jason A. Scheele
- David R. Smelko
- Theodore T. Storer
- Susan E. Trent
- Thomas B. Trent
- Cindy A. Wolfer
- Mark A. Warsco
- Michael D. Zaradich

C. Describe the extent of your jury experience, if any.

As a law clerk for Judge Baker, I assisted him in preparing for and conducting jury trials, including the preparation of jury instructions.

D. If applicable, describe the nature and extent of your judicial experience, including a description of your experience presiding over jury trials, if any.

I have served several times as a judge pro tempore for the Allen Superior Court – Small Claims Division. In that capacity I presided over small claims trials and protective order hearings.

VI. A. If applicable, list by caption, case number, and filing date up to five of your trial or appellate briefs and/or written judicial opinions.

1. *Pfenning v. Lineman*, 27A02-0905-CV-444, March 10, 2010, Petition to Transfer
2. *Harold McComb & Son, Inc. v. JPMorgan Chase Bank, N.A.*, 02A04-0802-CV-60, April 14, 2008, Appellee's Brief; case reported at 892 N.E.2d 1255 (Ind. Ct. App. 2008)
3. *Indiana Ins. Guaranty Ass'n v. Bedford Reg'l Med. Ctr.*, 47A01-0412-CV-504, April 26, 2006, Brief of *Amicus Curiae* Defense Trial Counsel of Indiana; case reported at 863 N.E.2d 308 (Ind. 2007)
4. *Bruno v. Wells Fargo Bank, N.A.*, 46A03-0508-CV-365, December 5, 2005, Appellee's Brief; case reported at 850 N.E.2d 940 (Ind. Ct. App. 2006)
5. *Parkview Hosp., Inc. v. Roese*, 02A05-0009-CV-386, January 4, 2001, Appellant's Brief; case reported at 750 N.E.2d 384 (Ind. Ct. App. 2001)

B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, by date, and by subject matter.

Not applicable.

C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

Strategies to Minimize Liability Under Federal and State Environmental Laws, by G. Martin Cole and Christine M. Brookbank, Legal Research Digest, No. 9, March 1998.

This article was sponsored by the Federal Transit Authority through the Transit Cooperative Research Program. The article educated transit agencies across the country how to spot and address environmental issues, both for prophylactic and remedial purposes. It examined and compared federal environmental laws and environmental laws in all fifty states.

D. Include with your application copies of any four of the written materials listed above in Section VI. A., B., and C.

See attached items VI. A. 1., 2., 3. and 5.

E. Describe the nature and extent of any *pro bono* legal services you have contributed.

- Volunteer Lawyer Program – I volunteer my time and trial expertise to the Volunteer Lawyer Program in the Allen Superior Court by representing petitioners in mental health commitment hearings. I have volunteered for this program approximately every other month since February 2004.
- Junior League of Fort Wayne – I am corporate counsel for JLFW, a non-profit organization devoted to developing women leaders and serving the community. I assist with the annual audit and with general legal questions as they arise. I have been a member of JLFW since August 2000.
- Defense Trial Counsel of Indiana – As an appellate practitioner, I have drafted two *amicus curiae* briefs on behalf of Defense Trial Counsel of Indiana – one in 2007 and one in 2009.
- Guardian Ad Litem – I have served as a guardian ad litem in two guardianship cases, one for an infant and one for a disabled adult.

F. Identify the five most significant legal matters entrusted to you whether as a judge or lawyer, and describe why you believe them to be so.

1. Halls Drive-Ins, Inc. v. City of Fort Wayne. In these two companion cases, I represented the City of Fort Wayne on appeal. These cases were an early challenge to the then newly-implemented Fort Wayne smoking

ordinance. The cases were significant because the result had city-wide implications for restaurants and enforcement agencies and also because the ordinance was under a great deal of public attention. The ordinance and its enforcement were ultimately upheld on appeal. The decisions are reported at 773 N.E.2d 255 (Ind. 2002) and 773 N.E.2d 259 (Ind. 2002).

2. Parkview Hosp. v. Roese. I represented Parkview Hospital in defending against a motion to quash its hospital lien. The issue on appeal was whether Parkview was required to seek reimbursement from Medicare rather than from personal injury settlement proceeds. The case was significant because it was an issue of first impression and required analysis of both the Indiana Hospital Lien statute and federal Medicare statutes and regulations. The result of this case had state-wide implications for the enforcement of hospital liens. It garnered some national attention, and attorneys from other states requested the briefing for use in addressing similar issues in their jurisdictions. The case is reported at 750 N.E.2d 384 (Ind. Ct. App. 2001).
3. Defense Trial Counsel of Indiana as *amicus curiae* in Butler v. Indiana Dept. of Ins. This wrongful death case addressed the issue of whether an estate was entitled to recover the amount charged by medical providers or the amount ultimately accepted. I drafted the *amicus curiae* brief on behalf of DTCI to assist the court in assessing the general effect of the decision and how public policy would best be served. This case was significant because it had broad-reaching effect for wrongful death cases in Indiana, and because this is a developing area of the law, particularly with how it relates to the collateral source rule. The case is reported at 904 N.E.2d 198 (Ind. 2009).
4. KSUZ v. Z Pistons, et al. I defended this contractual dispute for an out-of-state client. The case was significant and challenging because of how large and complex it was. The main issue in the case was whether actuarial projections supported the purchase price of a multi-million dollar sale of a business. This multiple-party / multiple-issue case spanned several years of my practice and involved disputed actuarial tables, a significant amount of discovery and several discovery disputes, an appeal regarding jurisdiction, and numerous depositions of fact witnesses and experts. Ultimately, the case was resolved at mediation.
5. Warsco v. IFS, Inc. et al. I represented the Trustee in bankruptcy in this action to recover funds transferred from the debtor to an inter-related company. This case was significant to me because I mentored a young litigator in all aspects of the case from discovery through bench trial. After trial, a judgment was entered in favor of the Trustee.

G. Provide the names, addresses, and telephone numbers of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Indiana Supreme Court.

Melanie D. Margolin
Frost Brown Todd
201 N. Illinois St., Suite 1900
Indianapolis, IN 46204-4236
(317) 237-3800

David K. Hawk
Hawk Haynie Kammeyer & Chickedantz, LLP
116 East Berry St., Suite 302
Fort Wayne, IN 46802
(260) 422-1515

Stephen P. Griebel
Attorney at Law
9309 E. Commerce Dr., Suite 2
Churubusco, IN 46723
(260) 693-0099

VII. A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice.

- I drafted an *amicus curiae* brief on behalf of Defense Trial Counsel of Indiana in *Butler v. Indiana Dept. of Ins.*, 904 N.E.2d 198 (Ind. 2009), in which I urged the Court to consider the public policy implications and the public perception of lawyers.
- I drafted an *amicus curiae* brief and participated in oral argument to the Indiana Supreme Court on behalf of Defense Trial Counsel of Indiana in *Indiana Ins. Guaranty Ass'n v. Bedford Reg'l Med. Ctr.*, 863 N.E.2d 308 (Ind. 2007), in which I urged the Court to consider the effect on alternate dispute resolution.
- I spoke at and prepared written materials for the Continuing Legal Education seminar – Introduction to Interlocutory Appeals, June 7, 2006, at the Allen County Bar Association to educate the bar on interlocutory appeals and to improve the understanding and use of the interlocutory appellate process.
- Through my firm, I have participated in shadowing programs and in law day to give high school students a positive perception of lawyers and the legal process.

B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues.

- President's Volunteer Service Award – This award is given through the President's Points of Light Foundation to those who have significantly contributed to their community through volunteer service. I have been awarded this honor four times – twice at the gold level (500+ hours of community service) and twice at the silver level (250-499 hours of community service). I received these awards for my efforts in developing women's leadership and improving the lives of women and children in Fort Wayne through my work with the Junior League of Fort Wayne.
 - Gold level – 2008, 2009
 - Silver level – 2006, 2007
- As a Board member on the Allen County Council on Aging, in 1999, I wrote a column titled "Ask a Lawyer" for the agency's newsletter. The column was written in response to specific questions from the agency's clients and addressed common legal concerns for seniors, such as wills, living wills, powers of attorney and guardianships.
- In 1999, I served on the committee to elect Samuel J. Talarico, Jr. for Fort Wayne City Council. As part of my work on this committee, I encouraged participation in voting and in the political process by coordinating volunteers to work at polling places, by going door-to-door to discuss the candidate, and by speaking at a local high school on the importance of voting. Mr. Talarico's bid for City Council was successful.
- From 1999-2007, I volunteered at Aldersgate United Methodist Church as a Sunday School teacher for children three to five-years-old.

C. List any memberships and offices you have held in civic or charitable organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

- March of Dimes, Northeast Indiana Division – Board of Directors, Treasurer 2009-present; March of Dimes is a national organization whose mission is to improve the health of babies by preventing birth defects, premature births, and infant mortality.
- St. Joseph-St. Elizabeth Home and School Association – Co-chair Book Fair Committee 2010-2011; HASA is the parent/school organization of St. Joseph St. Elizabeth Catholic School whose purpose is to fundraise for the benefit of the school and to act as a liaison between parents and the school.
- Junior League of Fort Wayne, 2000-present; JLFW is an organization of women whose mission is to promote voluntarism, develop the potential of women and improve the community through the effective action and leadership of trained volunteers. Its purpose is exclusively educational and

charitable. Its vision is to be the leading force in improving the lives of women and children.

- President, 2008-2009
- President-Elect, 2007-08
- Membership Vice-President, 2006-2007
- Bargain Box Treasurer, 2005-2006
- Education and Training Chair, 2004-2005
- Community Vice President, 2002-2003
- State Public Affairs Committee Chair, 2001-2002
- Allen County Council on Aging, Board of Directors, 1997-2003; ACCA is a not-for-profit agency whose mission is to serve adults 60 and over to foster independence and improved quality of life.
- Copper Hill Neighborhood Association, Board of Directors, Secretary, 1998-2001; The Copper Hill Neighborhood Association has the purpose of maintaining the neighborhood as a safe and pleasant place to live and enforcing the by-law and restrictive covenants when necessary.

D. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

- American Bar Association, member, 1996-2009. The ABA's mission is to serve its members, the profession and the public by defending liberty and delivering justice as the national representative of the legal profession.
- Indiana State Bar Association, member, 1996-present. The ISBA's purpose is to advance the profession of law, to secure a more effective administration of justice, to promote reforms in the law, and to encourage excellence in legal education.
- Allen County Bar Association, member, 1996-present; Chair - Appellate Section, 2002-2004. The ACBA's purpose is to assist in the due administration of justice, to promote the continued education of lawyers and laypeople in the fields of law and legal procedure, and to maintain the honor and integrity of the legal profession.
- Litigation Counsel of America, fellow, 2009-present. LCA is a trial lawyer honor society whose purpose is to recognize deserving, experienced, and highly qualified lawyers, to provide an outlet for scholarly authorship of legal articles on trial and litigation practice, to provide additional sources for professional development, to promote superior advocacy and ethical standards in the practice of law, to assist in community involvement by its membership, and to advance a superior judiciary.
- Indiana Trial Lawyers Association, member, 2003-2006. ITLA's purpose includes promoting high standards of professional ethics, competency and demeanor in the administration of justice.

- Benjamin Harrison American Inns of Court, associate member, 1999-2006 & 2007-2008. The American Inns of Court's purpose includes improving the skills, professionalism and ethics of the bench and bar.
- 7th Circuit Bar Association, member, 2001-2009. The 7th Circuit Bar Association's purpose includes assisting the Courts of the Circuit in the improvement of the administration of justice and making recommendations to that end.

E. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

No such memberships.

F. Indicate your experience teaching law, and provide the dates, names of institutions or programs, and a description of the subject matter taught.

During the academic years of 1993-94 and 1994-95, I was a Teaching Assistant for the Legal Writing, Reasoning and Research course at Valparaiso University School of Law. This was a required course for first year students, during which they learned legal research and writing skills. My responsibilities included conducting small group classes to supplement the lecture; giving further instruction on legal research and writing; and pre-grading research and writing assignments. I also held regular office hours to instruct and assist students individually.

G. Describe your hobbies and other leisure activities.

I enjoy volunteering my time in the community, at my children's school and at church. To relax, I like to read and do crossword puzzles. As a family, we spend our summer weekends boating and swimming on the lake.

VIII. A. Provide names, addresses, and telephone numbers of three professional references other than those listed in Section VI. G.

Samuel J. Talarico, Jr.
Barrett & McNagny
215 East Berry St.
Fort Wayne, IN 46802
(260) 423-9551

Kathryn Roudebush
Law Offices of Kathryn Roudebush
7321 West Jefferson Blvd.
Fort Wayne, IN 46804
(260) 672-9416

Jeffrey P. Smith
Hawk Haynie Kammeyer & Chickedantz, LLP
116 East Berry St., Suite 302
Fort Wayne, IN 46802
(260) 422-1515

B. Provide names, addresses, and telephone numbers of three personal references other than those listed in VI. G.

Paula S. Hughes
President, Allen County Council
5717 Reed Rd.
Fort Wayne, IN 46835
(260) 450-6507

Sandi Kemmish
Director – Lincoln Financial Foundation
P.O. Box 7863
Fort Wayne, IN 46801-7863
(260) 455-3879

Kathie Fleck
4612 Arlington Ave.
Fort Wayne, IN 46807
(260) 455-3879

C. List any lawsuits or legal proceedings in any jurisdiction, including bankruptcies and dissolutions, to which you have been a party. Provide dates, case numbers, names of other parties, and, if needed, a brief explanation.

Christine M. Stach v. David J. Stach
May 29, 2007
02D07-0705-DR-585
Allen Superior Court
Dissolution of marriage

D. If you've ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

Not applicable.

E. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide dates.

I am not a member of the Bar of another state; however, I am licensed and in good standing in the following federal jurisdictions:

- Northern District of Indiana, 1995
- Southern District of Indiana, 1995
- U.S. Court of Appeals, 7th Circuit, 2001
- U.S. Supreme Court, 2005

F. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number if applicable, and describe the circumstances and the nature of the outcome or resolution.

Not applicable.

G. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

Not applicable.

IX. A. Attach a recent statement from your physician describing your general physical condition.

B. Within the past three years, have you been diagnosed or treated for an emotional or mental condition or illness, including any condition that involves treatment for drug or alcohol use? If so, provide the dates of assessment and/or treatment and the names and addresses of your doctors or other treatment providers.

C. Are you able to perform the essential functions of Justice on the Indiana Supreme Court, with or without accommodation?

Yes.

June 25, 2010
DATE

Christine M. Marcuccilli
APPLICANT'S SIGNATURE

Christine M. Marcuccilli
PRINTED NAME

WAIVER AND STATEMENT OF CONSENT

The undersigned applicant authorizes the release to the Indiana Judicial Nominating Commission or its staff or agents any records, reports, and documents, whether or not otherwise confidential, which may be requested by the Commission in the performance of its evaluations of candidates pursuant to I.C. § 33-27-3-2. The scope of this authorization extends to, but is not necessarily limited to, requests from the Commission for Federal, State or local tax records, criminal and driving histories from any jurisdiction, attorney and judicial disciplinary records from any jurisdiction, whether pending or closed, and credit reports and histories. The undersigned releases and discharges the Judicial Nominating Commission, its individual members, its employees, agents and representatives, the Indiana State Police, the Indiana Department of Revenue, the Indiana Supreme Court Disciplinary Commission and any other agency or person or their agents or representatives providing information to the Commission from any and all liability arising from the furnishing and use of information concerning the undersigned applicant.

The undersigned agrees and understands that the Indiana Judicial Nominating Commission or its members, agents, or employees, may interview or otherwise consult with members of the legal, judicial, and general community concerning the professional qualifications and the integrity of the applicant, that the name of the applicant will be released by the Commission upon its receipt of the application and this waiver, and that if, pursuant to I.C. § 33-27-3-2(d), the applicant is given further consideration as a candidate after the Commission's initial screening of candidates, or if no such screening occurs and all applicants are considered, the application will be made public. This waiver does not constitute an election by the applicant pursuant to I.C. § 33-27-3-2(g)(3)(C) to authorize the release of investigatory records which are excepted from public inspection pursuant to I.C. § 33-27-3-2(g)(1) and (2).

The undersigned agrees to immediately supplement this application upon any event or circumstance substantially affecting any answer provided in the application.

The undersigned acknowledges having read the Instructions attached to the application.

The undersigned agrees to resign from office or membership in any political organization upon submission of this application.

The undersigned affirms that, if nominated by the Judicial Nominating Commission to the Governor and thereafter appointed to this judicial office, the candidate will accept the appointment.

June 25, 2000
DATE

Christine M. Marcuccilli
APPLICANT'S SIGNATURE

Christine M. Marcuccilli
PRINTED NAME